

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CLEMENT WOGHIREN,

Plaintiff,

v.

**WYETH, and
WYETH BIOPHARMA,**

Defendants.

CIVIL ACTION NO. 04-12148 WGY

**AFIDAVIT OF JOHN TOCCI, ESQ. IN SUPPORT OF
OPPOSITION TO DEFENDANTS' MOTION FOR COSTS**

1. My name is John F. Tocci, Esq. and I am an adult Massachusetts resident.
2. I am an officer of the court and counsel to the plaintiff in the above-captioned matter, Clement Woghiren (the "Plaintiff").
3. I have reviewed the Wyeth's and Wyeth Biopharma's (collectively the "Defendants" or "Wyeth") Motion for Costs.
4. I understand that Wyeth seeks costs associated with expedited deposition transcripts.
5. Depositions in this matter were postponed until just weeks prior to the pre-trial conference. The attorneys for the parties acted professionally toward one another and extended various scheduling courtesies to each other during the course of the litigation.
6. One such scheduling courtesy was agreeing to take depositions in September 2005 due to Wyeth's counsel's vacation schedule in August 2005. Attached hereto as Exhibit 1 is a true and accurate e-mail I received from Attorney Fitzhugh in which he requests this accommodation, which I afforded.

7. Dr. Woghiren spent over \$1,300 on copy costs for the purpose of producing full sets of all uncontested exhibits for each juror, the clerk, Judge Young and each party. A copy of that Copy Cop invoice is appended hereto as Exhibit 2.

8. I asked Wyeth to join in sharing the costs of producing the exhibits ion this manner but Wyeth declined, choosing to utilize electronic media to display exhibits. Attached hereto as Exhibit 3 is a true and accurate e-mail I received from Attorney Fitzhugh in which he declines, on behalf of Wyeth, to share in the cost of producing the exhibit binders.

9. I have generally been made aware of my client, Dr. Woghiren's, precarious financial circumstances. He is obligated to pay substantial fees and costs associated with this litigation. On the other hand, Wyeth recently reported that its *net income* for the calendar year 2005 was \$18.8 billion. Attached hereto as Exhibit 4 is a true and accurate copy of Wyeth's Income Earning Report, which I downloaded from Wyeth's website <http://www.wyeth.com>.

**SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 2ND DAY
OF FEBRUARY, 2006.**

/S/ John F. Tocci
John F. Tocci